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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 KURT ANGELONE,
12 Plaintiff,

13 v.

14 MICHAEL FURST, *et al*,
15 Defendants.

Case No. C07-5538RJB-KLS

ORDER REGARDING
PLAINTIFF'S SECOND MOTION
FOR EXTENSION OF TIME

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17 This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. §
18 636(b)(1), Local Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is
19 before the Court on plaintiff's filing of a second motion for an extension of time (Dkt. #114) to file a
20 response to defendants' motion for summary judgment (Dkt. #103). After reviewing plaintiff's motion
21 and the balance of the record, the Court finds and orders as follows:

22 On October 28, 2008, the Court granted plaintiff's first motion for an extension of time to respond
23 to defendants' summary judgment motion. (Dkt. #105 and #110). In his first motion, which was filed on
24 October 7, 2008, plaintiff stated he needed an extension of time until November 17, 2008, because he was
25 in the process of being transferred to a new institution, and he already had had most, if not all, of his legal
26 property taken from him for shipment to that institution. The Court granted plaintiff's request, because it
27 did not seem to be unreasonable at the time.

28 On November 12, 2008, plaintiff filed his second motion for an extension of time to respond to

1 defendants' motion for summary judgment. This time, plaintiff states he is unable to meet the above
2 extended deadline, because he is "under the influence of a powerful narcotic" he apparently takes for his
3 pain, as well as morphine. (Dkt. #114 -2, p. 1). This, he claims, dulls his senses "to such a degree" that it
4 takes him much longer to organize his thoughts. As such, plaintiff alleges it is "extremely difficult" for
5 him "to maintain and keep up with this lawsuit at this time." (Id. at p. 1-2).

6 Plaintiff further states if he is given enough time (until December 26, 2008) "to do what I must do
7 in this situation" given his need to "be on morphine indefinitely" – meaning he may need even more time
8 than already asked for – than he will be able to respond to defendants' motion. (Id. at p. 2). This request
9 for additional time, however, is not well taken. First, plaintiff does not state when he first allegedly came
10 under influence of his current medication regime. Apparently he was not under such influence when he
11 made his first request for an extension of time, and there is no indication that he was under the influence
12 prior to the filing of his latest motion, merely five days before his response was due.

13 The Court further finds plaintiff's own recent filings in this matter belie his claims of inability to
14 timely and effectively respond to defendants' motion for summary judgment, or to otherwise prosecute
15 his lawsuit. For example, plaintiff clearly was able to file his current motion and to provide a declaration
16 in support thereof shortly before his response was required. Further, just two days prior to filing that
17 motion, plaintiff filed 18-pages of objections to a September 30, 2008 report and recommendation
18 recommending defendant Furst's motion for summary judgment be granted, again supported by a
19 declaration as well as by attached exhibits. (Dkt. #113). As such, the Court is inclined to deny plaintiff's
20 second motion for an extension of time.

21 Given that the deadline for filing that response already has passed, however, and, in the exercise
22 of extreme caution that he might have had some reaction to his medication regimen, the Court will
23 provide plaintiff with one last chance to do so. Accordingly, plaintiff hereby is GRANTED some
24 additional amount of time in which to file a response to defendants' motion for summary judgment. That
25 response shall be due by **no later than December 10, 2008**. Defendants shall file their reply by **no later**
26 **than December 15, 2008**. The Clerk, therefore, shall re-note defendants' motion (Dkt. #103) for
27 consideration on **December 19, 2008**.

28 **Plaintiff is warned, however, that he will be granted no further extensions of time in which
to file a response to defendants' motion for summary judgment, that any response he does file will**

1 **not be considered by the Court unless it is filed by December 10, 2008, and that defendants' motion**
2 **will come before the Court for consideration on December 19, 2008.**

3 The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

4 DATED this 20th day of November, 2008.

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8 Karen L. Strombom
9 United States Magistrate Judge
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